



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

201316028

JAN 24 2013

Uniform Issue List: 408.03-00

T:EP:RA:T2

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XXXXXXXXXXXXXX

Legend:

Taxpayer A	= XXXXXXXXXXXXXXXX
IRA B	= XXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXX
Account C	= XXXXXXXXXXXXXXXX
Bank D	= XXXXXXXXXXXXXXXX
Amount 1	= XXXXXXXXXXXXXXXX

Dear XXXXXXXXXXXXXXX:

This is in response to your request dated July 8, 2011, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer A represents that she received a distribution equal to Amount 1 from IRA B, which was maintained by Bank D. Taxpayer B asserts that her failure to accomplish a rollover within the 60-day period prescribed by 408(d)(3)(A) was due to her lack of knowledge about rollovers.

Taxpayer A represents that she owned IRA B. In May 2010, as part of divorce proceedings, Taxpayer A was informed by her attorney that all her assets had to be liquidated. As a result, Taxpayer A requested a total distribution of IRA B and opened Account C with Bank D for the purpose of "saving monies for retirement."

Taxpayer A transferred Amount 1 to Account C, a non-IRA account, on May 11, 2010.

Taxpayer A did not realize that she should have rolled Amount 1 into an IRA until she gathered her tax documents and presented them to her accountant in 2011. Taxpayer A further represents that Amount 1 has not been used for any other purpose.

Based on the facts and representations, a ruling has been requested that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount 1.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if:

(i) the entire amount received (including money or any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary of the Treasury may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I).

Rev. Proc. 2003-16, 2003-4 I.R.B. 359 (January 27, 2003), provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The Service has the authority to waive the 60-day rollover requirement for a distribution from an IRA where the individual failed to complete a rollover to another IRA within the 60-day rollover period but was prevented from doing so because of one of the factors enumerated in Rev. Proc. 2003-16, for example, errors committed by a financial institution, death, hospitalization, postal error, incarceration, and/or disability. Taxpayer A has not alleged that any of the factors enumerated in Rev. Proc. 2003-16 prevented her from timely completing the rollover.

Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby declines to waive the 60-day rollover requirement with respect to the distribution of Amount 1 from IRA B.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayers who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

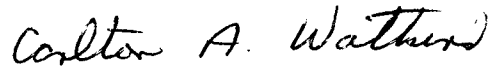
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If you wish to inquire about this ruling, please contact XXXXXXXXXXXXXX (ID XXXXXXXXXXXX) at (XXX) XXX-XXXX. Please address all correspondence to SE:T:EP:RA:T1.

Sincerely yours,



Carlton A. Watkins, Manager
Employee Plans Technical Group 1

Enclosures:

Notice of Intention to Disclose
Deleted copy of this letter